

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

BARRENECHE, INC., DOVE HILL TRUST,  
FAIRFIELD GREENWICH CAPITAL  
PARTNERS, FG INVESTORS LTD., FORTUNA  
ASSET MANAGEMENT INC.,  
INVERCOUNSEL, S.L., INVERCOUNSEL USA  
LLC, SELECTA FINANCIAL CORPORATION  
INC., AND SHARE MANAGEMENT,

Defendants.

Adv. Pro. No. 12-01702 (SMB)

**APPELLEES' COUNTER-DESIGNATION OF  
ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellees Barreneche, Inc., Dove Hill Trust, Fairfield Greenwich Capital Partners, FG Investors Ltd., Fortuna Asset Management Inc., Selecta Financial Corporation Inc., and Share Management (collectively, the "Appellees"), by and through their undersigned counsel, respectfully submit, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and

Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, their counter-designation of items to be included in the record on appeal with respect to the appeal by Irving H. Picard (the “Trustee”), as trustee of the substantively consolidated estate of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act (“SIPA”), 15 U.S.C. §§ 78aaa, et seq., and Bernard L. Madoff, individually, in the above captioned adversary proceeding (the “Adversary Proceeding”) of the Final Order Granting Motion to Partially Dismiss Complaint (the “Final Judgment”) before the United States Court of Appeals for the Second Circuit.

**COUNTER-DESIGNATION OF ITEMS TO BE  
INCLUDED IN THE RECORD ON APPEAL<sup>1</sup>**

1. All items designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment, including, without limitation, the items designated in the Trustee’s Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal (ECF No. 101);<sup>2</sup>
2. The Certification of Direct Appeal to Court of Appeals (ECF No. 103); and
3. The April 8, 2016 Letter on Behalf of the Subsequent Transferee Defendants in Response to Mr. Sheehan’s April 7, 2016 Letter (*Secs. Inv. Protection Corp. v. Bernard L. Madoff Inv. Secs., LLC*, Adv. Pro. No. 08-01789 (SMB), ECF No. 13070).

**RESERVATION OF RIGHT**

Appellees expressly reserves the right to supplement the record on appeal or cross-appeal and to adopt the designation of any items designated or counter-designated by any other

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<sup>1</sup> Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

<sup>2</sup> Unless otherwise stated, citations to (ECF No. \_\_) refer to docket entries for *Picard v. Barreneche, Inc., et al.*, Adv. Pro. No. 12-01702 (SMB) (Bankr. S.D.N.Y.).

appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment.

Dated: April 11, 2017  
New York, New York

Respectfully submitted,

By: /s/ Mark G. Cunha  
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Fortuna Asset Management Inc., Selecta Financial  
Corporation Inc., and Share Management LLC*